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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,773	06/06/2005	Arsenia Estrella Garrido	Q-88188	4652

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EXAMINER

HALE, GLORIA M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/537,773

Applicant(s)

ESTRELLA GARRIDO, ARSENIA

Examiner

Gloria Hale

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is still unclear. The present claims have been written more as a "method of use" instead of a Breast Protection Disk system. A suggestion would be to amend claim 1 as a kit or system of "Absorbent Breast Feeding Protection Disks" wherein the system comprises a set of disks for selective application to alternate breast while breast feeding. The system comprises two alternative disk types wherein a first disk comprises a disk with a surface configuration selected from one of a low relief tactile marking; a high relief tactile marking or an optical marking wherein a wearer can differentiate between the two alternative protection disks etc. It is suggested that the disks are defined as absorbent protective disks for placement into a bra cup in order to differentiate it from a bra cup disk shape configuration. The drawing reference numbers should also be removed in order to avoid confusion with the number 2 as being two disks etc. In claim 2 the terms "tactile and /or optical marking" should be amended to coincide with the new language that will be added to claim 1 as the "Markush Grouping".

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The claim may be amended by stating that the "absorbent protection disks from claim 1 wherein said marking is removable and for movement from the first type of disks to the second type of disks during use. Claim 3 is still not clear in that it is not clear as to whether the bubble is burst before use as a new disk or is burst during use. Claim 3 is not written more in regard to a method of use than as a product. Claim 4 should include that the "protective device" is an "absorbent protective device" and that the disks are "absorbent disks". Claim 4 is presently more clear than claim 1 in that it differentiates the disk from a bra cup. However, the "protection device" should be better claimed as a "protection device system" or as a "protection device kit". The claims should include kit claims with a first and second disk and then another kit with multiple sets of first and second disks/ The tactile topical markings need to be claimed as indication that the breast has been breast fed etc. in order to differentiate applicant's invention from breast pads of different colors or fabric designs such as lace or decorative breast pads in the marketplace such as pasty type device of different decorative configurations. The present claims do not claim the device as an absorbent breast pad comprised of a certain absorbent material. Any type of cellulose material used to make a pasty would be absorbent as broadly claimed. For example a pasty with a heart shape on the surface and another pasty with a star shape thereon would read on applicant's claims. The shapes would both be optical and tactile if 3-dimensional. Claim 7 is not clear in regard to the "burst bubble" wherein it is not clear as to when the bubble is burst such as either before or after use. In regard to claim 8 the "undeformed bubble" and "Deformed bubble" language is not clear. It is not clear if

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they are a different shape such as having a deformed boundary edge or if they are burst.

The allowable subject matter is the "bubble" and burst "bubble" configuration or if the claims are written in only a specific kit form with the absorbent material clearly claimed as being more than a just a single cellulosic paper type or fabric layer in order to overcome decorative pasties.

Claims 1-10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

The action is not being made final as a courtesy to applicant's representative in order to clarify the indefinite claim language.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984.

The examiner can normally be reached on Tues.-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gloria Hale
Primary Examiner
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